

Message Text

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ORIGIN L-03

INFO OCT-01 AF-10 ARA-10 EUR-12 EA-07 NEA-10 IO-13
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FM SECSTATE WASHDC
TO AMEMBASSY ADDIS ABABA
AMEMBASSY ATHENS
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AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES
AMEMBASSY COPENHAGEN
AMEMBASSY DACCA
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AMEMBASSY KINGSTON
AMEMBASSY KUALA LUMPUR
AMEMBASSY LA PAZ
AMEMBASSY LIBREVILLE
AMEMBASSY LIMA
AMEMBASSY LISBON
AMEMBASSY LOME
AMEMBASSY MANILA
AMEMBASSY MOGADISCIO
AMEMBASSY MOSCOW
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AMEMBASSY NAIROBI
AMEMBASSY NOUAKCHOTT
AMEMBASSY OUAGADOUGOU
AMEMBASSY PRAGUE
AMEMBASSY QUITO
AMEMBASSY SANA
AMEMBASSY SOFIA

AMEMBASSY TUNIS
AMEMBASSY VIENNA
AMEMBASSY WARSAW
AMEMBASSY WELLINGTON
INFO AMEMBASSY BRUSSELS
USMISSION GENEVA
USLO PEKING
USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 146969

USEEC

E.O. 11652: GDS

TAGS: EGEN, EINV, UN, ECOSOC

SUBJECT: INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS

REF: (A) STATE 144233; (B) STATE 141733; (C) STATE 145005

1. THIS MESSAGE PROVIDES INSTRUCTIONS AND SUPPLEMENTARY INFORMATION MENTIONED IN REF A FOR POSTS IN ECOSOC MEMBER COUNTRIES WHICH DO NOT PARTICIPATE IN ECOSOC AD HOC INTERGOVERNMENTAL WORKING GROUP ON ILLICIT PAYMENTS. FURTHER BACKGROUND ON THIS ISSUE ALSO
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PROVIDED REF A.

2. UNLESS THEY PERCEIVE SERIOUS OBJECTION, ACTION ADDRESSEE POSTS SHOULD MAKE REPRESENTATIONS IMMEDIATELY IN ORDER TO GIVE HOST GOVERNMENTS MAXIMUM TIME TO CONSIDER OUR POSITION BEFORE DELEGATIONS LEAVE FOR ECOSOC MEETING BEGINNING JULY 6. IN SOME CASES DELEGATIONS MAY HAVE ALREADY LEFT, OR ECOSOC SESSION WILL BE COVERED BY HOST COUNTRY'S PERMANENT MISSION IN GENEVA. POSTS IN SUCH COUNTRIES SHOULD ALSO MAKE REPRESENTATION ASAP. ALTHOUGH ISSUE WILL BE TAKEN UP TOWARD END OF JULY, CONSULTATIONS WILL BEGIN EARLY

AND TIME IS REQUIRED FOR HOST COUNTRY TO COMMUNICATE FORMALLY WITH ITS DELEGATION OR PERMANENT MISSION.

3. UNLESS OTHERWISE INSTRUCTED, POSTS HAVE DISCRETION AS TO LEVELS OF GOVERNMENT OR INDIVIDUALS WHERE REPRESENTATIONS ARE MOST LIKELY TO BE EFFECTIVE, BUT SHOULD BEAR IN MIND (1) PRESIDENT CARTER'S STRONG INTEREST IN THIS SUBJECT AND (2) THAT OUR OBJECTIVE IS TO ENSURE THAT HOST GOVERNMENTS PERSUADED TO

INSTRUCT DELEGATIONS TO SUPPORT US PROPOSAL. IN ADDITION TO FOLLOWING TALKING POINTS, AIDES-MEMOIRE IN ENGLISH, AND IN FRENCH OR SPANISH TO APPROPRIATE POSTS, ARE BEING SENT SEPTEL TO ACTION ADDRESSEES.

4. REF B TRANSMITTED TEXT OF DRAFT RESOLUTION US WILL SUBMIT TO JULY ECOSOC SESSION. POSTS ARE REQUESTED TO PROVIDE TEXT TO HOST GOVERNMENTS ALONG WITH AIDE-MEMOIRE.

5. TALKING POINTS:

-- AS YOU MAY BE AWARE, THE UNITED STATES AND OTHER COUNTRIES WILL BE SEEKING A RESOLUTION AT THE JULY CONFIDENTIAL

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ECOSOC SESSION AUTHORIZING PREPARATIONS FOR A DIPLOMATIC CONFERENCE IN 1978 TO ADOPT AN INTERNATIONAL AGREEMENT ON BRIBERY IN INTERNATIONAL COMMERCIAL TRANSACTIONS.

-- THE UNITED STATES BELIEVES THAT SUCH AN AGREEMENT IS BADLY NEEDED. PRESIDENT CARTER ATTACHES GREAT IMPORTANCE TO ITS ADOPTION. HE HAS ALSO GIVEN HIS SUPPORT TO NEW LAWS IN THE UNITED STATES PROHIBITING THE BRIBERY OF FOREIGN OFFICIALS BY US ENTERPRISES.

-- IT SEEMS CLEAR TO US THAT ALL NATIONS HAVE A COMMON INTEREST IN CONTROLLING BRIBERY IN INTERNATIONAL COMMERCIAL TRANSACTIONS. THIS PRACTICE CORRUPTS PUBLIC AND PRIVATE INSTITUTIONS, DISTORTS ECONOMIC AND COMMERCIAL RELATIONSHIPS, AGGRAVATES BALANCE OF PAYMENTS PROBLEMS AND, IN PARTICULAR, IS A HEAVY BURDEN ON DEVELOPMENT. BRIBERY HAS ALSO BEEN THE SOURCE OF DIFFICULTIES IN BILATERAL RELATIONS BETWEEN STATES.

-- CURRENT CRIMINAL LAWS ARE DIFFICULT TO ENFORCE IN SITUATIONS INVOLVING DIVERSE NATIONALITIES; THESE LAWS ALONE ARE NOT ENOUGH. THERE IS A NEED FOR INTERNATIONAL COOPERATION ON THIS PROBLEM, AND THIS

REQUIRES AN INTERNATIONAL AGREEMENT.

-- WORKING GROUP ON ILLICIT PAYMENTS ESTABLISHED BY ECOSOC IN 1976 HAS DONE GOOD WORK AND PRODUCED A WORKING TEXT FOR SUCH AN AGREEMENT. OUR RESOLUTION AT THE JUNE ECOSOC WOULD EXTEND THE WORKING GROUP TO FINISH PREPARATION OF A DRAFT AGREEMENT AND CONVENE A DIPLOMATIC CONFERENCE TO ADOPT IT. WE HOPE VERY CONFIDENTIAL

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MUCH THAT YOU WILL BE ABLE TO SUPPORT THIS RESOLUTION.

-- (IF ASKED) WE SEE NO CONFLICT BETWEEN AN AGREEMENT ON BRIBERY AND A CODE OF CONDUCT FOR TRANSNATIONAL CORPORATIONS. THIS IS BORNE OUT BY THE ECOSOC RESOLUTION LAST SUMMER WHICH ESTABLISHED THE WORKING GROUP ON ILLICIT PAYMENTS AND CHARGED IT TO WORK OUT AN INTERNATIONAL AGREEMENT. THIS RESOLUTION IMPLEMENTED A GENERAL ASSEMBLY RESOLUTION (3514), AND BOTH RESOLUTIONS STATE THAT WORK ON ILLICIT PAYMENTS SHOULD NOT INTERFERE WITH THE HIGH PRIORITY GIVEN TO A CODE OF CONDUCT ON TNCS.

-- (IF ASKED) THE UNITED STATES IS SYMPATHETIC TO AFRICAN CONCERNS ABOUT THE PAYMENT OF TAXES AND ROYALTIES TO MINORITY REGIMES IN SOUTHERN AFRICA. WE FULLY RECOGNIZE THE DEPTH OF AFRICAN FEELING ON THESE QUESTIONS. HOWEVER, WE STRONGLY PREFER TO PURSUE THESE EXTREMELY IMPORTANT PROBLEMS IN THE APPROPRIATE MAJOR BODIES OF THE UN, AND BILATERALLY. AS AFRICAN COUNTRIES KNOW, THE US IS NOW WORKING HARD FOR A PEACEFUL RESOLUTION OF SOUTHERN AFRICAN PROBLEMS.

CHRISTOPHER

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